THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.21160 OF 2005

Date:28.09.2005

Between:

M.S.Rao

… Petitioner

AND

The Regional Manager, APSRTC and

others.

… Respondents

ORDER:

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The petitioner is employed as a conductor in A.P.S.RT.C. While conducting the bus, he committed some cash and ticket irregularities on 25.02.1998. The petitioner was issued a charge sheet directing him to explain as to why necessary disciplinary action shall not be taken against him for the alleged irregularities. The petitioner submitted his explanation on 25.03.1998. On consideration of the said explanation, the respondent passed an order, dated 28.03.1998, imposing penalty of stoppage of annual increment for a period of two years and further directed that it shall have the cumulative effect on the future increments. The petitioner challenges the same.

The only point urged by Sri G.Ravi Mohan, the learned counsel for the petitioner, is that the 2nd respondent imposed the penalty of stoppage of annual increment for a period of two years with cumulative effect without conducting departmental enquiry.

He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Sri V.T.M.Prasad, the learned Standing Counsel appearing for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the irregularities on his part are taken into account.

It is a matter of record that the 2nd respondent imposed the penalty of stoppage of annual increment for a period of two years with cumulative effect, on the allegation that the petitioner was negligent in performing his duties. Though a charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the respondents to pass fresh orders. To avoid further delay and complication in the matter, this Court is of the view that the impugned order can be treated as the one for stoppage of one increment for a period of two years without cumulative effect.

Hence, the writ petition is partly allowed directing that the order, dated 28.03.1998, passed by the 2nd respondent shall be treated as the one for stoppage of annual increment for a period of two years without cumulative effect. However, the petitioner shall not be entitled to any monetary benefit that had accrued up to the date of this order. There shall be no order as to costs.

28.09.2005

kdl